

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SCOTT SYZAK,

Plaintiff,

Hon. Janet T. Neff

v.

Case No. 1:16-cv-727

ANDREA LINDHOUT, et al.,

Defendants.

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REPORT AND RECOMMENDATION

Plaintiff initiated the present action on June 13, 2016, against numerous defendants including an unidentified “Health Unit Manager.” Pursuant to 28 U.S.C. § 636(b)(1)(B), the undersigned recommends that Plaintiff’s claims against this unidentified defendant be **dismissed for failure to timely effect service.**

Federal Rule of Civil Procedure 4(c) indicates that “[a] summons must be served together with a copy of the complaint.” The time frame within which service must be effected is articulated in Rule 4(m), which provides that if service of the summons and complaint is not made upon a defendant within 90 days after the filing of the complaint, “the court - on motion or on its own after notice to the plaintiff - must dismiss the action without prejudice against that defendant or order that service be made within a specified time.” If the plaintiff demonstrates good cause for such failure, however, the court “must extend the time for service for an appropriate period.” Fed. R. Civ. P. 4(m).

On July 18, 2016, the Court ordered that Plaintiff's complaint be served. In the more than twelve (12) months since, Plaintiff has neither requested an extension of time to effect service on this Unknown Party nor requested the Court's assistance in identifying this individual. Considering Plaintiff's lack of diligence, the undersigned recommends that Plaintiff's claims against the unidentified "Health Unit Manager" be dismissed for failure to timely effect service.

CONCLUSION

For the reasons articulated herein, the undersigned recommends that Plaintiff's claims against the unidentified "Health Unit Manager" be **dismissed for failure to timely effect service**. The undersigned further recommends that appeal of this matter would not be taken in good faith. *See McGore v. Wrigglesworth*, 114 F.3d 601, 611 (6th Cir. 1997); 28 U.S.C. § 1915(a)(3).

OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within fourteen (14) days of the date of service of this notice. 28 U.S.C. § 636(b)(1)(C). Failure to file objections within the specified time waives the right to appeal the District Court's order. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir.1981).

Respectfully submitted,

Date: September 6, 2017

/s/ Ellen S. Carmody
ELLEN S. CARMODY
United States Magistrate Judge